

## Pension Benefit Guaranty Corporation

## § 4219.1

amount of unfunded vested benefits allocable to the employer shall be determined as if each plan had remained a separate plan. In making this determination, the plan sponsor shall use the allocation method of the withdrawing employer's prior plan and shall compute the employer's allocable share of the plan's unfunded vested benefits as if the day before the effective date of the merger were the end of the last plan year prior to the withdrawal.

### PART 4219—NOTICE, COLLECTION, AND REDETERMINATION OF WITHDRAWAL LIABILITY

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AUTHORITY: 29 U.S.C. 1302(b)(3) and 1399(c)(6).

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#### Subpart A—General

##### § 4219.1 Purpose and scope.

(a) *Subpart A.* Subpart A of this part describes the purpose and scope of the

provisions in this part and defined terms used in this part.

(b) *Subpart B—(1) Purpose.* When a multiemployer plan terminates by the withdrawal of every employer from the plan, or when substantially all employers withdraw from a multiemployer plan pursuant to an agreement or arrangement to withdraw from the plan, section 4219(c)(1)(D)(i) of ERISA requires that the liability of such withdrawing employers be determined (or redetermined) without regard to the 20-year limitation on annual payments established in section 4219(c)(1)(B) of ERISA. In addition, section 4219(c)(1)(D)(ii) requires that, upon the occurrence of a withdrawal described above, the total unfunded vested benefits of the plan be fully allocated among such withdrawing employers in a manner that is not inconsistent with PBGC regulations. Section 4209(c) of ERISA provides that the *de minimis* reduction established in sections 4209 (a) and (b) of ERISA shall not apply to an employer that withdraws in a plan year in which substantially all employers withdraw from the plan, or to an employer that withdraws pursuant to an agreement to withdraw during a period of one or more plan years during which substantially all employers withdraw pursuant to an agreement or arrangement to withdraw. The purpose of subpart B of this part is to prescribe rules, pursuant to sections 4219(c)(1)(D) and 4209(c) of ERISA, for redetermining an employer's withdrawal liability and fully allocating the unfunded vested benefits of a multiemployer plan in either of two mass-withdrawal situations: the termination of a plan by the withdrawal of every employer and the withdrawal of substantially all employers pursuant to an agreement or arrangement to withdraw. Subpart B also prescribes rules for redetermining the liability of an employer without regard to section 4209 (a) or (b) when the employer withdraws in a plan year in which substantially all employers withdraw, regardless of the occurrence of a mass withdrawal. (See part 4281 regarding the valuation of unfunded vested benefits to be fully allocated under subpart B, and parts 4041A and 4281 regarding the powers and duties of the

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plan sponsor of a plan terminated by mass withdrawal.)

(2) *Scope.* Subpart B applies to multi-employer plans covered by title IV of ERISA, with respect to which there is a termination by the withdrawal of every employer (including a plan created by a partition pursuant to section 4233 of ERISA) or a withdrawal of substantially all employers in the plan pursuant to an agreement or arrangement to withdraw from the plan, and to employers that withdraw from such multiemployer plans. The obligations of a plan sponsor of a mass-withdrawal-terminated plan under subpart B shall cease to apply when the plan assets are distributed in full satisfaction of all nonforfeitable benefits under the plan. Subpart B also applies, to the extent appropriate, to multiemployer plans with respect to which there is a withdrawal of substantially all employers in a single plan year and to employers that withdraw from such plans in that plan year.

(c) *Subpart C.* Subpart C establishes the interest rate to be charged on overdue, defaulted and overpaid withdrawal liability under section 4219(c)(6) of ERISA, and authorizes multiemployer plans to adopt alternative rules concerning assessment of interest and related matters. Subpart C applies to multiemployer plans covered under title IV of ERISA, and to employers that have withdrawn from such plans after April 28, 1980 (May 2, 1979, for certain employers in the seagoing industry).

### § 4219.2 Definitions.

(a) The following terms are defined in § 4001.2 of this chapter: employer, ERISA, IRS, mass withdrawal, multi-employer plan, nonforfeitable benefit, PBGC, plan, and plan year.

(b) For purposes of this part:

*Initial withdrawal liability* means the amount of withdrawal liability determined in accordance with sections 4201 through 4225 of title IV without regard to the occurrence of a mass withdrawal.

*Mass withdrawal liability* means the sum of an employer's liability for *de minimis* amounts, liability for 20-year-limitation amounts, and reallocation liability.

*Mass withdrawal valuation date* means—

(1) In the case of a termination by mass withdrawal, the last day of the plan year in which the plan terminates; or

(2) in the case of a withdrawal of substantially all employers pursuant to an agreement or arrangement to withdraw, the last day of the plan year as of which substantially all employers have withdrawn.

*Reallocation liability* means the amount of unfunded vested benefits allocated to an employer in the event of a mass withdrawal.

*Reallocation record date* means a date selected by the plan sponsor, which shall be not earlier than the date of the plan's actuarial report for the year of the mass withdrawal and not later than one year after the mass withdrawal valuation date.

*Redetermination liability* means the sum of an employer's liability for *de minimis* amounts and the employer's liability for 20-year-limitation amounts.

*Unfunded vested benefits* means the amount by which the present value of a plan's vested benefits exceeds the value of plan assets (including claims of the plan for unpaid initial withdrawal liability and redetermination liability), determined in accordance with section 4281 of ERISA and part 4281, subpart B.

(c) For purposes of subpart B—

*Withdrawal* means a complete withdrawal as defined in section 4203 of ERISA.

### Subpart B—Redetermination of Withdrawal Liability Upon Mass Withdrawal

#### § 4219.11 Withdrawal liability upon mass withdrawal.

(a) *Initial withdrawal liability.* The plan sponsor of a multiemployer plan that experiences a mass withdrawal shall determine initial withdrawal liability pursuant to section 4201 of ERISA of every employer that has completely or partially withdrawn from the plan and for whom the liability has not previously been determined and, in accordance with section 4202 of ERISA, notify each employer of the amount of the initial withdrawal liability and collect the amount of the